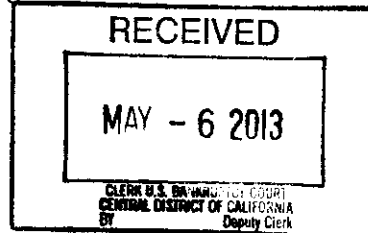
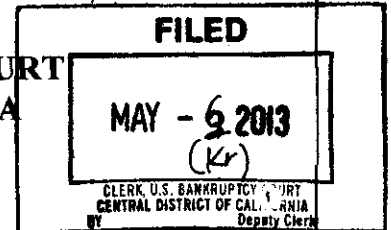


Mary C. Kautter, Pro Se  
1008 Robin Circle  
Arroyo Grande, CA 93420  
(805) 202-8740  
mkautter@yahoo.com



**UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT CALIFORNIA  
NORTHERN DIVISION**



In re

Mary C. Kautter, Debtor

) Ch 13 No.: 9:12-bk-14439-RR  
)  
) Chapter 13  
)  
) Adv. No.: 9:13-ap-01001-RR  
)  
) **NOTICE AND MOTION FOR ORDER**  
) **DISALLOWING CLAIM OF NATIONSTAR**  
) **MORTGAGE LLC PURSUANT TO F.R.B.P.**  
) **3001, 3007, AND 9011.**  
)  
)  
) **Hearing Date:**  
) **DATE:** 5/31/2013  
) **TIME:** 10:00 a.m.  
) **LOCATION:** Ctrm 201, 1415 State St.  
) Santa Barbara, CA93101

**TO: THE HONORABLE JUDGE ROBIN L. RIBLET, U. S. BANKRUPTCY JUDGE;  
ELIZABETH F. ROJAS, CHAPTER 13 TRUSTEE; BRICE, VANDER LINDEN  
& WERNICK, P.C., COUNSEL FOR NATIONSTAR MORTGAGE LLC;  
AND TO ALL OTHER INTERESTED PARTIES:**

COMES NOW, Mary C. Kautter, debtor in pro se, and does respectfully move this court to disallow the Proof Of Claim of Nationstar Mortgage LLC (filing date: 02/28/2013) pursuant to F.R.B.P. 3001, 3007, and 9011; based upon Debtors not having received the attested to mailings of said Claim, and same Proof of Claim not having been entered or accessible on ECF- PACER until on or about 04/21/2013. Please consider the following:

///

1 Due to the amendments to Rule 3001 of the Federal Rules of Bankruptcy Procedure  
2 (F.R.B.P.), effective December 1, 2011, combined with the promulgation of a revised Official  
3 Proof of Claim form, mortgage claimants must meet what is perceived to be a much higher  
4 standard, which requires greater vigilance in the preparation of their claims.

5 Proofs of claim are legal pleadings and should be given the same meticulous review as  
6 any other legal document. This is not just a matter of making sure that the Form B10 is complete  
7 and all of the documents are attached- but, importantly, a thorough review and examination of  
8 the totality of the contents of the claim package should be performed.

10 The new B10 includes a declaration which, according to the Committee Notes, "is  
11 intended to impress upon the filer the duty of care that must be exercised in filing a proof of  
12 claim." Persons signing the form do so under penalty of perjury and must attest that the  
13 information is true and correct to the best of their information, belief and knowledge. This  
14 arguably reflects the increased level of familiarity with the contents that the person signing the  
15 claim must possess.

17 Further, a claimant filing a proof of claim package should ensure that such is delivered  
18 to- and received by, the Debtor(s) and all interested parties. This would be readily and finally  
19 accomplished via a "certified" mailing of the Proof of Claim package to the Debtor(s); thus,  
20 yielding obvious benefits: 1) verification to the claimant of Debtors' receipt upon delivery of  
21 same; 2) it would be more likely that the Debtor(s) would actually RECEIVE the Proof of Claim  
22 package via "certified" mailing.

25 Debtor, Mary C. Kautter, and co-debtor, John M. Kautter did not receive the Proof of  
26 Claim, filed by Keena N. Newmark, for Nationstar Mortgage LLC. The Claim was allegedly  
27 mailed (citing claimant's Certificate of Service- signed not under penalty of perjury, by Keena N.  
28

1 Newmark- as Authorized Agent for Nationstar Mortgage, LLC), to each debtor separately at  
2 their residence: 1008 Robin Circle, Arroyo Grande, CA 93420.

3 Debtor, Mary C. Kautter, can offer no explanation as to why not at least one of those  
4 two separate mailings were delivered.

5 Debtor, Mary C. Kautter, is a practiced user of ECF-PACER, and can provide transaction  
6 histories as evidence of such upon request of parties, or the Court. From this experience, it was  
7 expected that any filings related to the above-cited cases would be Bates-stamped, docketed, and  
8 corresponding documents and attachments- downloadable.

10 However, the Proof of Claim dated 02/28/2013, was not docketed, posted, or available,  
11 on PACER until, Sunday, 04/21/2013. Previous to the weekend of April 19 – 21, 2013, PACER  
12 access was always successful. However, PACER access was interrupted beginning in the late  
13 afternoon, on Friday, April 19, 2013, and continuing until Sunday morning, April 21, 2013.

15 When the site was, again, available- the display had been changed, and variables had  
16 been added. Upon clicking a new hyperlink: "Claims History", Debtor then "discovered" that a  
17 Proof of Claim had been filed--- on 02/28/2013, by Nationstar Mortgage LLC, and this complete  
18 "surprise" was Debtor's first knowing of the existence of said Proof of Claim.

20 During subsequent telephone conversations with PACER employees, it was reported that  
21 the Court Clerk's Office, in Santa Barbara, had been upgrading or updating their database of case  
22 information that weekend (beginning April 19, 2013 )- and, explained that PACER exercised no  
23 control over Clerk of the Court inputted information or site design features.

25 As a consequence of the foregoing, Debtor Mary C. Kautter, objects to the Proof of  
26 Claim, dated 02/28/2013, as filed by Nationstar Mortgage LLC, for the following reasons:

27 1) claimant failed to notify Debtor, in writing, as would comport with the Certificate of  
28

Service attestation by Keena N. Newmark;

- 2) the aforesaid failure to notify renders the claim as a - "bad" claim;
- 3) upon information and belief, Keena N. Newmark is a licensed attorney;
- 4) upon information and belief, claimant and claimant's authorized agent have displayed an utter lack of consideration and bad faith toward Debtors, which is prejudicial and injurious to Debtors, and undermines the purpose of the Bankruptcy Court, and - the intent of Congress;
- 5) under the new F.R.B.P. Rule 3001, there are consequences for filing a "bad" claim, and poorly prepared claims may result in the claimant being barred from producing additional information to defend against a claim objection;
- 6) the mandates of F.R.B.P. Rule 9011, require that parties not make representations (which include pleadings) to the court for an improper purpose, without proper support or without adequate investigation. Relevant provisions:

Rule 9011. Signing of Papers; Representations to the Court; Sanctions; Verification and

Copies of Papers

*(a) Signing of papers.*

Every petition, pleading, written motion, and other paper, except a list, schedule, or statement, or amendments thereto, shall be signed by at least one attorney of record in the attorney's individual name. A party who is not represented by an attorney shall sign all papers. Each paper shall state the signer's address and telephone number, if any. An unsigned paper shall be stricken unless omission of the signature is corrected promptly after being called to the attention of the attorney or party.

*(b) Representations to the court.*

1 By presenting to the court (whether by signing, filing, submitting, or later advocating) a  
2 petition, pleading, written motion, or other paper, an attorney or unrepresented party is  
3 certifying that to the best of the person's knowledge, information, and belief, formed after  
4 an inquiry reasonable under the circumstances,—

- 5 1) it is not being presented for any improper purpose, such as to harass or to  
6 cause unnecessary delay or needless increase in the cost of litigation;  
7  
8 2) the claims, defenses, and other legal contentions therein are warranted by  
9 existing law or by a nonfrivolous argument for the extension, modification, or  
10 reversal of existing law or the establishment of new law;  
11  
12 3) the allegations and other factual contentions have evidentiary support or,  
13 if specifically so identified, are likely to have evidentiary support after a  
14 reasonable opportunity for further investigation or discovery; and  
15  
16 4) the denials of factual contentions are warranted on the evidence or, if  
17 specifically so identified, are reasonably based on a lack of information or  
18 belief.

19 c) *Sanctions.*

20 If, after notice and a reasonable opportunity to respond, the court  
21 determines that subdivision (b) has been violated, the court may,  
22 *subject to the conditions stated below, impose an appropriate sanction*  
23 *upon the attorneys, law firms, or parties that have violated subdivision*  
24 *(b) or are responsible for the violation.*

26 When a creditor has filed a proof of claim that complies with the rules, thereby giving  
27 rise to the presumption of validity, the burden shifts to the objecting party who must "present  
28

1 evidence to overcome the *prima facie* case." *United States v. Offord Fin., Inc. (In re Medina)*,  
2 205 B.R. 216, 222 (9th Cir. BAP 1996).

3 Debtor, Mary C. Kautter, suffers injury as a result of having been denied receipt of the  
4 Proof of Claim (hard copy) in its entirety, as filed by Nationstar Mortgage LLC, on 02/28/2013,  
5 and is desirous of receiving same via certified mail, if such is achievable.

6  
7 WHEREFORE, it is respectfully requested that:

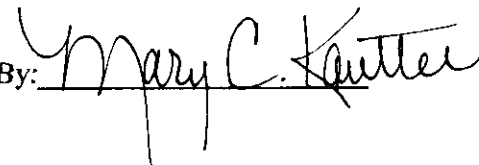
8  
9 A. Proof of Claim No. 1 be expunged in full;

10 B. That this Court issue sanctions against the Claimant;

11 C. For such other and further relief as this Court may deem just and proper.  
12  
13  
14

15 **Respectfully Submitted.**

16  
17 Dated this 3<sup>rd</sup> Day of May, 2013

18  
19 By:   
20

21 Mary C. Kautter, Pro Se  
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26  
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28

Mary C. Kautter, Pro Se  
1008 Robin Circle  
Arroyo Grande, CA 93420  
(805) 202-8740

UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT CALIFORNIA  
NORTHERN DIVISION

In re: ) Case No.: 9:12-bk-14439-RR  
)  
) Chapter 13  
Mary C. Kautter, Plaintiff/Debtor )  
) Adv. Proc.: No. 9:13-ap-01001-RR  
)  
) **DECLARATION IN SUPPORT OF**  
) **NOTICE AND MOTION FOR ORDER**  
) **DISALLOWING CLAIM OF**  
) **NATIONSTAR MORTGAGE LLC**  
) **PURSUANT TO F.R.B.P. 3001, 3007,**  
) **AND 9011.**  
)

**Hearing Date:**

DATE: 5/31/2013

TIME: 10:00 a.m.

LOCATION: Ctrm 201, 1415 State St.  
Santa Barbara, CA 93101

**DECLARATION OF MARY C. KAUTTER**

I, Mary C. Kautter, do hereby declare as follows:

I am over the age of eighteen years, am of sound mind, have never been convicted of a felony or crime of moral turpitude; I am competent in all respects to make this declaration. I have personal knowledge of the matters declared herein, and if called to testify to the same, I could and would competently testify thereto.

Executed the 29<sup>th</sup> day of April, 2013, at Arroyo Grande, California.

By: 

Mary C. Kautter, pro se Plaintiff/Debtor

Mary C. Kautter, Pro Se  
1008 Robin Circle  
Arroyo Grande, CA 93420  
(805) 202-8740

UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT CALIFORNIA  
NORTHERN DIVISION

In re  
John M. Kautter, Debtor

) Case No.: 9:12-bk-14439-RR  
)  
) Chapter 13  
)  
) Adv No.: 9:13-ap 01001-RR  
)  
) **DECLARATION IN SUPPORT OF**  
) **NOTICE AND MOTION FOR ORDER**  
) **DISALLOWING CLAIM OF**  
) **NATIONSTAR MORTGAGE LLC**  
) **PURSUANT TO F.R.B.P. 3001, 3007,**  
) **AND 9011.**

**Hearing Date:**

DATE: 5/31/2013

TIME: 10:00 a.m.

LOCATION: Ctrm 201, 1415 State St.  
Santa Barbara, CA 93101

**DECLARATION OF JOHN M. KAUTTER**

*I, John M. Kautter, do hereby declare as follows:*

I am over the age of eighteen years, am of sound mind, have never been convicted of  
a felony or crime of moral turpitude; I am competent in all respects to make this declaration.

I have personal knowledge of the matters declared herein, and if called to testify to the same,

I could and would competently testify thereto.

Executed the 29th day of April, 2013, at Arroyo Grande, California.

By: John M. Kautter

John M. Kautter, Debtor

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address  Mary C. Kautter, Pro Se 1008 Robin Circle Arroyo Grande, CA 93420 (805) 202-8740 mkautter@yahoo.com  <input type="checkbox"/> Attorney for:	FOR COURT USE ONLY
<b>UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - NORTHERN DIVISION</b>	
In re:  Mary C. and John M. Kautter          Debtor(s).	CASE NO.: 9:12-bk-14439-RR CHAPTER: 13
	<b>NOTICE OF OBJECTION TO CLAIM</b>
	DATE: 05/31/2013 TIME: 10:00 am COURTROOM: 201 PLACE: 1415 State Street Santa Barbara, CA 93101-2511

1. TO (specify claimant and claimant's counsel, if any): Nationstar Mortgage LLC; Brice, Vander Linden & Wernick PC  
Attn: Mark D. Estle
2. NOTICE IS HEREBY GIVEN that the undersigned has filed an objection to your Proof of Claim (Claim # 1) filed in the above referenced case. The Objection to Claim seeks to alter your rights by disallowing, reducing or modifying the claim based upon the grounds set forth in the objection, a copy of which is attached hereto and served herewith.
3. **Deadline for Opposition Papers:** You must file and serve a response to the Objection to Claim not later than 14 days prior to the hearing date set forth above.

**IF YOU FAIL TO TIMELY RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE OBJECTION WITHOUT FURTHER NOTICE OR HEARING.**

Date: 05/03/2013

Mary C. Kautter, Pro Se  
Printed name of law firm

  
Signature

Date Notice Mailed: 05/03/2013

Mary C. Kautter

Printed name of attorney for objector

This form is mandatory. It has been approved for use in the United States Bankruptcy Court for the Central District of California.

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

944 Sycamore Street  
Arroyo Grande, CA  
93420

A true and correct copy of the foregoing document entitled: **NOTICE OF OBJECTION TO CLAIM** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) 05/03/2013, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

See NEF for confirmation of electronic transmission to the U. S. trustee, and trustee in this case, and to any attorneys who receive service by NEF.

☐ Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On (date) 05/03/2013, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Honorable Robin L. Riblet-U. S. Bankruptcy Court- Ctrm 201-1415 State Street, Santa Barbara, CA 93101  
Clerk of the Bankruptcy Court - 1415 State Street, Santa Barbara, CA 93101-2511  
Elizabeth F. Rojas (ND-TR) - 15060 Ventura Boulevard, Suite 240, Sherman Oaks, CA 91403-2436  
Brice, Vander Linden & Wernick- Mark D. Estle-12520 High Bluff Drive, Suite 265, San Diego, CA 92130-3011

☐ Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) \_\_\_\_\_, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

05/03/2013  
Date

Mary King  
Printed Name

Mary King  
Signature

This form is mandatory. It has been approved for use in the United States Bankruptcy Court for the Central District of California.